

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Corwin	Team: Squad #10	CCRB Case #: 201810413	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 12/08/2018 11:00 PM	Location of Incident: [REDACTED]	Precinct: 67	18 Mo. SOL 6/8/2020	EO SOL 1/23/2021	
Date/Time CV Reported Fri, 12/14/2018 1:54 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 12/14/2018 1:54 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Alfred Foy	21496	954821	PBBS SU
2. SGT Brian Alexander	03185	948599	PBBS SU
3. POM James Holder	18361	951823	PBBS SU
4. POM Christian Cayenne	02135	954620	PBBS SU

Officer(s)	Allegation	Investigator Recommendation
A.POM James Holder	Abuse: Police Officer James Holder stopped the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
B.POM Alfred Foy	Abuse: Police Officer Alfred Foy stopped the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
C.POM Christian Cayenne	Abuse: Police Officer Christian Cayenne stopped the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
D.SGT Brian Alexander	Abuse: Sergeant Brian Alexander stopped the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
E.POM James Holder	Abuse: Police Officer James Holder frisked § 87(2)(b) [REDACTED]	[REDACTED]
F.POM James Holder	Abuse: Police Officer James Holder searched the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
G.POM James Holder	Abuse: Police Officer James Holder failed to provide § 87(2)(b) [REDACTED] with a business card.	[REDACTED]
H.POM Alfred Foy	Abuse: Police Officer Alfred Foy failed to provide § 87(2)(b) [REDACTED] with a business card.	[REDACTED]
I.POM Christian Cayenne	Abuse: Police Officer Christian Cayenne failed to provide § 87(2)(b) [REDACTED] with a business card.	[REDACTED]
J.SGT Brian Alexander	Abuse: Sergeant Brian Alexander failed to provide § 87(2)(b) [REDACTED] with a business card.	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

On December 14, 2018, § 87(2)(b) filed the following complaint with the CCRB via phone call.

At approximately 11:00 p.m. on December 08, 2018, § 87(2)(b) was driving on Utica Avenue towards Kings Highway in Brooklyn when he was pulled over by Police Officer James Holder, Police Officer Alfred Foy, Police Officer Christian Cayenne, and Sergeant Brian Alexander, all of Patrol Borough Brooklyn South (**Allegation A: Abuse of Authority: Vehicle Stop: § 87(2)(g)**, **Allegation B: Abuse of Authority: Vehicle Stop: § 87(2)(g)**, **Allegation C: Abuse of Authority: Vehicle Stop: § 87(2)(g)**, **Allegation D: Abuse of Authority: Vehicle Stop: § 87(2)(g)**). After approaching the car and obtaining § 87(2)(b)'s driver's license, PO Holder allegedly told § 87(2)(b) to step out of his vehicle and subsequently patted down his pants pockets (**Allegation E: Abuse of Authority: Frisk: § 87(2)(g)**). PO Holder then allegedly searched § 87(2)(b)'s car (**Allegation F: Abuse of Authority: Vehicle Search: § 87(2)(g)**). § 87(2)(b) then asked the officers for paperwork that documented that the stop and search had occurred, but none of the officers provided § 87(2)(b) with a business card (**Allegation G: Abuse of Authority: Failure to provide RTKA card: § 87(2)(g)**, **Allegation H: Abuse of Authority: Failure to provide RTKA card: § 87(2)(g)**, **Allegation I: Abuse of Authority: Failure to provide RTKA card: § 87(2)(g)**, **Allegation J: Abuse of Authority: Failure to provide RTKA card: § 87(2)(g)**). § 87(4-b), § 87(2)(g)

§ 87(2)(b) The investigation was unable to obtain video of the incident.

Findings and Recommendations

Allegation A: Abuse of Authority: Police Officer James Holder stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation B: Abuse of Authority: Police Officer Alfred Foy stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation C: Abuse of Authority: Police Officer Christian Cayenne stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation D: Abuse of Authority: Sergeant Brian Alexander stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) provided a sworn statement at the CCRB on December 18, 2018 (**Board Review 01**). He also provided IAB with a telephone statement (**Board Review 02**), which was summarized by the investigation (**Board Review 03**) and an in-person statement (**Board Review 04**), which was also summarized by the investigation (**Board Review 05**). § 87(2)(b) also provided a telephone statement to the CCRB on May 30, 2019 (**Board Review 06**). PO Holder provided a statement to the CCRB on February 15, 2019 (**Board Review 07**), PO Foy provided a statement on February 14, 2019 (**Board Review 08**), PO Cayenne provided a statement on February 14, 2019 (**Board Review 09**), and Sgt. Alexander provided a statement on February 15, 2019 (**Board Review 10**).

In his statements, which were generally consistent, § 87(2)(b) said that he started to pass a car that was driving slowly in front of him. In order to do this, he had to pass the car by using the bus lane to his right, although he did not recall if he used his turn signal when he moved into the bus lane. When § 87(2)(b) asked PO Holder why he was being pulled over, PO Holder told him that he had failed to signal.

PO Holder stated that he and his fellow officers were in their car at the intersection of Utica Avenue and Clarendon Road when they saw § 87(2)(b)'s car on their right-side drive past them in the bus lane at a speed that PO Holder estimated to be at least 45 miles per hour. After passing a few cars, § 87(2)(b)'s car swerved back into the main lane. The officers then stopped § 87(2)(b)'s car in the vicinity of Utica Avenue and Farragut Road. When § 87(2)(b) asked him why he was being stopped, PO Holder said, "Are you serious? The speed limit is 25 mph and you were doing at least 40." § 87(2)(b) then apologized and told PO Holder that he was speeding because he had to get somewhere, although PO Holder did not recall exactly what § 87(2)(b)'s reason was.

PO Cayenne stated that he observed § 87(2)(b) fail to signal for a lane change. The officers then turned on their lights and sirens in order to indicate to § 87(2)(b) that he needed to stop. He also stated that PO Holder told § 87(2)(b) why he was being stopped.

Neither PO Foy nor Sgt. Alexander had an independent recollection of the incident. Both officers made entries in the fly pages of their memo books, however, that described stopping § 87(2)(b) for a failure to signal, as did PO Cayenne (**Board Review 11**).

Because § 87(2)(b) did not recall if he used his signal while passing the car in front of him, because he stated that the reason PO Holder gave him for the stop was a failure to signal, and because PO Cayenne, PO Foy, and Sgt. Alexander had notes in the fly pages of their memo books describing a failure to signal, the investigation has determined by a preponderance of the evidence that § 87(2)(b) failed to signal as he passed the car in front of him.

According to New York State Vehicle and Traffic Law S1163, signals shall be used to indicate an intention to turn, change lanes, or start from a parked position (**Board Review 12**).

§ 87(2)(g)

Allegation E: Abuse of Authority: Police Officer James Holder frisked § 87(2)(b)

Allegation F: Abuse of Authority: Police Officer James Holder searched the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b)'s statements were generally consistent. He said that after he gave PO Holder his identification, PO Holder told him to step out of the car because he smelled marijuana. PO Holder then told § 87(2)(b) to put his hands up and then patted and squeezed § 87(2)(b)'s front and back pants pockets as well as the pocket in his jacket by his chest. PO Holder then instructed § 87(2)(b) to go to the rear of his car, where Sgt. Alexander told him to turn so that his back was to the car. § 87(2)(b) could hear his car doors opening and closing and could hear

rustling in the car. After about five minutes, § 87(2)(b) got back in his car. One of the officers told him to pop his trunk and PO Holder proceeded to look around in his trunk. § 87(2)(b) also noticed that his phone was not where he had it before.

PO Holder did not recall if he ever smelled marijuana during the incident. PO Holder denied telling § 87(2)(b) to exit his car, frisking § 87(2)(b) and searching § 87(2)(b)'s car. He stated that no other officers frisked § 87(2)(b) or searched his car.

PO Cayenne, PO Foy, and Sgt. Alexander all denied observing PO Holder frisk § 87(2)(b) or search § 87(2)(b)'s car. They did not recall a smell of marijuana, either.

§ 87(2)(g)

Allegation G: Abuse of Authority: Police Officer James Holder failed to provide § 87(2)(b) with a business card.

Allegation H: Abuse of Authority: Police Officer Alfred Foy failed to provide § 87(2)(b) with a business card.

Allegation I: Abuse of Authority: Police Officer Christian Cayenne failed to provide § 87(2)(b) with a business card.

Allegation J: Abuse of Authority: Sergeant Brian Alexander failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) stated that he asked PO Cayenne for some type of paperwork documenting the search of the car and Sgt. Alexander told him he would get a summons. The officers ultimately did not issue § 87(2)(b) a summons and drove away without providing him with a business card or any other type of documentation.

PO Holder stated that § 87(2)(b) did not ask for any documentation for the stop or for a business card. While PO Holder had business cards with him, he did not give § 87(2)(b) a business card. PO Foy did not recall whether or not he provided § 87(2)(b) with a business card. PO Cayenne did not hear § 87(2)(b) ask for any paperwork to document the interaction. He did have business cards with him, but did not provide § 87(2)(b) with one. He was not sure if any other officers gave § 87(2)(b) a card. Sgt. Alexander did not recall § 87(2)(b) asking for documentation of the incident. He had business cards with him but did not recall if he gave § 87(2)(b) one.

According to NYC Administrative Code 14-174, officers must offer a business card to a person at the conclusion of law enforcement activity. Frisks, pedestrian stops, and searches of persons or property; including vehicles are considered law enforcement activity. Additionally, an officer shall offer a business card to any person requesting identifying information (**Board Review 13**).

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 15**).
- PO Holder has been a member of service for seven years and has been a subject in seven CCRB complaints and 17 allegations, of which one was substantiated and six are still open.
 - 201502028 involved a substantiated allegation of a discourtesy. The board recommended training and the NYPD imposed Command level instructions
- PO Foy has been a member of service for five years and has been a subject in four CCRB complaints and ten allegations, of which none have been substantiated.
- PO Cayenne has been a member of service for five years and has been a subject in seven CCRB complaints and 27 allegations of which none have been substantiated.

- Sgt. Alexander has been a member of service for eight years and has been a subject in 14 CCRB complaints and 40 allegations, of which six were substantiated.
 - 291592721 involved substantiated allegations of a vehicle stop, vehicle search, refusal to provide name/shield, frisk, search, and question. The board recommended Command Discipline A and the NYPD imposed Command Discipline A.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- A request for any Notice of Claim regarding this incident has been submitted to the New York City Comptroller's Officer, and the results will be added to the case file upon receipt.
- § 87(2)(b)

Squad No.: 10

Investigator: _____

Signature _____ Print Title & Name _____ Date _____

Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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